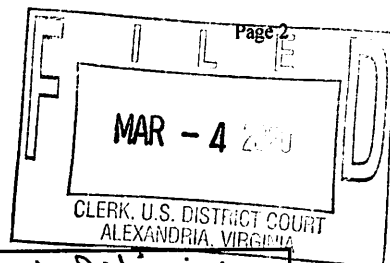


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**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: <u>Eastern District of Virginia</u>
Name (under which you were convicted): <u>Robert W. Dougherty</u>		Docket or Case No.: <u>CF 14000 245</u> <u>1:20 CV 256</u>
Place of Confinement: (Not presently) <u>Coffeewood Correctional Center</u>		Prisoner No.: <u>1008953</u>
Petitioner (include the name under which you were convicted) <u>Robert W. Dougherty</u>	Respondent (authorized person having custody of petitioner) <u>Commonwealth of Virginia</u> <u>Parole Board of Virginia</u> <u>Department of Corrections</u>	
The Attorney General of the State of: <u>Commonwealth of Virginia</u>		

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging:
Circuit Court of Virginia; Vicinage of Alexandria
and
Virginia Parole Board
- (b) Criminal docket or case number (if you know): CF 14000 245
- (a) Date of the judgment of conviction (if you know): October 23, 2014
- (b) Date of sentencing: October 23, 2014
- Length of sentence: 5 yrs with all suspended except 18 mos.
followed by 5 yrs - supervised probation
- In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
- Identify all crimes of which you were convicted and sentenced in this case:
grand larceny; auto theft (CF 14000 245)
- (a) What was your plea? (Check one)

<input type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input checked="" type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? N/A

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☒ No ?

9. If you did appeal, answer the following:

* (a) Name of court: Supreme Court of Virginia

(b) Docket or case number (if you know): No. 190426

(c) Result: Dismissal

(d) Date of result (if you know): January 27, 2020

(e) Citation to the case (if you know):

(f) Grounds raised: Petition For A Writ of Habeas Corpus mediated on Violation of, and Probation Same premises that same Court refused to entertain in Petition For A Writ of Habeas Corpus, dated March 14, 2016 Robert W. Dougherty v. Ivan T. Gilmore, Warden; Record No. 160470

(g) Did you seek further review by a higher state court?

☐ Yes

☒ No ; No higher state court.

If yes, answer the following:

(1) Name of court: N/A

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

* Petition For Writ of Mandamus; Filed in Circuit Court of Virginia, For the City/County of Culpeper. Sent on August 13, 2018, to J. Cook, Clerk. - No response to Petition, or subsequent requests to Clerk.

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No *If yes, answer the following: Previous case; same grounds.

(1) Docket or case number (if you know): _____

(2) Result: Petition for writ of certiorari; denied.(3) Date of result (if you know): January 7, 2019 (Rev'd 1-26-2019)(4) Citation to the case (if you know): 'Habeas Pro Tune' (No.: 18M81)10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Circuit Court of Virginia; Alexandria

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): August 11, 2019(4) Nature of the proceeding: Arrest for violation of Probation(5) Grounds raised: Wrongful probation, arrest for violation, retaliatory prosecution.
No bail. - Incarcerated for eleven days;
to close supervision.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☒ Yes☒ No(7) Result: Dismissal of violation - charge.

(8) Date of result (if you know): _____

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(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☐ Yes ☐ No(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

*- Supreme Court of Virginia
Petition for A writ of Habeas Corpus
No.: 190426 Filed Date: April 3, 2019
(Premise of this Petition For Relief)*

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE:

"Parolees to comply with terms; furnishing copies"
(Va. Code § 53.1-157)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

When released from Coffeywood Correctional Center, petitioner was given one document; Virginia Criminal Justice Agency 'Offender Information Form'. - "a copy of the terms and conditions of the parole and any changes which may from time to time be made therein. Said Form contained one statement: "Offender is not under the supervision of the Department of Corrections' Probation & Parole."

(b) If you did not exhaust your state remedies on Ground One, explain why:

PLEASE SEE COPY on following page, and PLEASE SEE MEMORANDUM in support of this Petition; Appendix B'



Virginia Criminal Justice Agency Offender Information Form

Report generated by Soutter, K A
Report run on 09/07/2018 at 9:50 AM

Full Name Dougherty, Robert William

DOC# 1008953

SSN# 207-34-7715
(Unverified)

Or Local Jail Number _____

Or Local Community Corrections Act Program # _____

Date of Birth 11/15/1943

Sex Male Race White

Height 5'7" Weight 170 lbs.

Hair Color Gray or Partially Gr Eye Color Blue

Offender Signature: _____

☒ Offender ☐ is ☒ is not under the supervision of the Department of Corrections' Probation & Parole

District/Center located at _____

☐ Offender is under supervision of Local community Corrections Program located at _____

☐ Offender is on Work Release through the custody of the _____ Jail/Sheriff's Office.

☐ Offender is currently being released from Virginia Department of Corrections facility located

at _____, on _____

☐ Administrative Request

The offender resides at the following address:

12352 Coffeewood Drive, PO Box 500, Mitchells VA,
22729-0500

Criminal Justice Agency Authorized Signature: _____

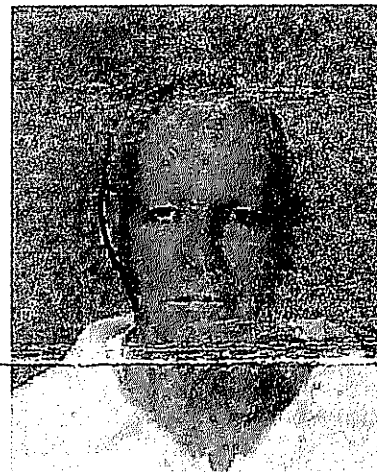
Name: Soutter, Kimberly A (CWCC)

Position: Operations Officer

Date: 09/07/2018

Telephone Number: (540) 829-6483

Ext. _____



APPROVED
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(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO:

Release of prisoners subject to parole.
(Va. Code § 531-158)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?



Yes



No

(2) If you did not raise this issue in your direct appeal, explain why:

Copy of Petition For A Writ of Habeas (for Probation and Violation)
to the Supreme Court of Virginia; in accompanying Memorandum

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?



Yes



No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Motion For Modification of Sentence,

Name and location of the court where the motion or petition was filed:

Circuit Court of Virginia, City of Alexandria

Docket or case number (if you know): CF 14000245

Date of the court's decision:

December 12, 2014.

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Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : _____

GROUND THREE:

"Right to retained or appointed counsel," probable cause hearing is critical phase of violation proceedings." (Code § 19.2-157)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Please SEE Petition For A Writ of Habeas Corpus; Supreme Court of Virginia, included in accompanying Memorandum; Appendix A

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(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: Virginia Criminal Justice Agency - Offer
Information Form, dated September 17, 2018.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Copy of 'Form', again on following page.

(b) If you did not exhaust your state remedies on Ground Four, explain why: _____

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____



Virginia Criminal Justice Agency Offender Information Form

Report generated by Soutter, K A
Report run on 09/07/2018 at 9:50 AM

Full Name Dougherty, Robert William

DOC# 1008953

SSN# 207-34-7715
(Unverified)

Or Local Jail Number _____

Or Local Community Corrections Act Program # _____

Date of Birth 11/15/1943

Sex Male Race White

Height 5'7" Weight 170 lbs.

Hair Color Gray or Partially Gr Eye Color Blue

Offender Signature: [Signature] 09/10/18 2:00 PM (approx)

☒ Offender ☐ is ☒ is not under the supervision of the Department of Corrections' Probation & Parole

District/Center located at _____

☐ Offender is under supervision of Local community Corrections Program located at _____

☐ Offender is on Work Release through the custody of the _____ Jail/Sheriff's Office.

☐ Offender is currently being released from Virginia Department of Corrections facility located

at _____, on _____

☐ Administrative Request

The offender resides at the following address:

12352 Coffeewood Drive, PO Box 500, Mitchells VA,
22729-0500

Criminal Justice Agency Authorized Signature:

Name:

Soutter, Kimberly A (CWCC)

Position:

Operations Officer

Date: 09/07/2018

Telephone Number: (540) 829-6483

Ext. _____

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ~~File~~ ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging: All pro se.

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

PETITION is predicated on petitioner's receipt and signature on Virginia Criminal Justice Agency - Offender Information Form (and statement), dated September 7, 2018.

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This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

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Therefore, petitioner asks that the Court grant the following relief:

Issuance of Writ of Habeas Corpus, to comply with Virginia Code, to which Department of Corrections and Probation and Parole refused to comply or recognize,

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on February 19, 2020 (month, date, year).

Also, a copy of all being mailed to the Office of the Attorney General of the Commonwealth of Virginia.

Executed (signed) on February 19, 2020 (date).

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

